

Amendment and Response

Applicant: Wilson T. Asfora

Serial No.: 09/633,573

Filed: August 4, 2000

Docket No.: M190.236.101 / P0030090.01

Title: SUBDURAL VACUUM PORT SYSTEM

REMARKS

This is responsive to the Non-Final Office Action mailed April 19, 2007. In that Office Action, the specification was objected to due to informalities. Claims 1-35, 37-39, and 42-48 were objected to due to informalities.

Claims 1-3, 6-9, 33, 37, and 46-48 were rejected under 35 U.S.C. §102(b) as being anticipated by Swann et al., U.S. Patent No. 4,646,752 ("Swann"). Claims 1-6, 9, 11, 33-35, 37-39, 42, and 44-48 were rejected under 35 U.S.C. §102(b) as being anticipated by Akers, U.S. Patent No. 3,650,551 ("Akers"). Claims 1-3, 6, 9, 11, and 46-48 were rejected under 35 U.S.C. §102(e) as being anticipated by Fleckenstein, U.S. Patent No. 6,454,774 ("Fleckenstein"). Claim 10 was rejected under 35 U.S.C. §103(a) as being unpatentable over Swann in view of Lake, U.S. Patent No. 3,766,910 ("Lake"). Claim 11 was rejected under 35 U.S.C. §103(a) as being unpatentable over Swann in view of Baudino, U.S. Patent No. 6,110,155 ("Baudino"). Claim 12 was rejected under 35 U.S.C. §103(a) as being unpatentable over Swann in view of Baudino as applied to claim 11 above, and further in view of McNeil et al., U.S. Patent No. 4,828,546 ("McNeil"). Claim 43 was rejected under 35 U.S.C. §103(a) as being unpatentable over Swann in view of Lake, and further in view of Baudino, and further in view of McNeil.

With this Response, claims 3, 10 and 33 have been cancelled and 1, 5, 6, 42, 43 and 45 have been amended. Claims 1, 2, 4-9, 11, 12, 34, 35, 38, 39, 42-48 remain pending in the application and are presented for reconsideration and allowance.

Objection to the Specification and Claims

The specification and claims were objected to for not explicitly stating with reference to the terms and phrases of the claim element, what structure, materials, and acts perform the function recited in the claim element. Claims 1, 6, 42 and 43 have been amended and claims 33 and 37 have been cancelled in response to Examiner's concerns. All of the claims containing means language have now been amended so that they explicitly reference terms and phrases from the specification.

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35 U.S.C. §102 Rejections

Claim 1 was rejected as being anticipated by Swann, Akers and Fleckenstein. Claim 1 has been amended to recite the exterior surface at the proximal end of the tubular portion forming self-tapping threads and a longitudinal groove extending through the self-tapping threads to define thread cutting surfaces adapted for cutting threads into the opening in the skull of the patient. None of the cited art teaches the use of self-tapping threads and a longitudinal groove extending through the self-tapping threads to define thread cutting surfaces. By using self-tapping threads and a longitudinal groove extending through the self-tapping threads the patient's skull is not subject to as much trauma as compared to the cited references when attaching the subdural evacuating port to the skull. The continuous, non-self-tapping threads of the cited references effectively compress the skull, not cut. Not only does the invention of claim 1 cause less trauma to the patient when attaching the subdural evacuating port device, but it causes less trauma during removal. For at least these reasons, it is respectfully submitted that claim 1 is in condition for allowance, as are claims 2, 4-5, 34, 35, 42, 44 and 46-48 depending there from.

In addition to the above, Applicant respectfully asserts that neither of Swann nor Akers teaches the "pair of wings" of claim 1. The subdural evacuating port device of claim 1 includes a pair of wings for facilitating finger rotation of the tubular portion. In both Swann and Akers there are no "pair of wings" to facilitate finger rotation of the tubular portion. Instead, a nut is attached to the threaded device, that in turn requires a wrench for forced rotation. A person's fingers would not be sufficiently strong to create the torque needed to twist the devices of Swann or Akers into the patient's skull. Thus, it is respectfully submitted that claim 1 is further allowable over Swann and Akers.

Claim 6 was rejected by Swann, Akers, and Fleckenstein. Claim 6 has been amended to recite a retractor for spacing sides of a scalp after an incision has been made, the retractor comprising a pair of arms each having a proximal end joined together to form an apex, each of the arms extending away from the apex such that distal ends of the arms are spaced from each other, the arms of the retractor forming a substantially V-shaped configuration, and the distal end

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of each arm forming a respective curved L-shaped tab for lodging below the scalp. Swann, Akers, and Fleckenstein do not have kits containing a retractor with the distal ends of the arms forming curved L-shaped tabs for lodging below the scalp. For at least this reason it is respectfully submitted that claim 6 is in condition for allowance, as are claims 7-9, 11, 12, 37-39 and 43 depending there from.

Claim 45 was rejected as being anticipated by Akers. Claim 45 has been amended to recite the lumen having a constant diameter throughout the tubular portion. Akers does not teach that the diameter of the lumen remain constant throughout the tubular portion. Akers teaches the use of two different diameters for the lumen of the tubular portion of the device. For at least this reason it is respectfully submitted that claim 45 is in condition for allowance.

CONCLUSION

In view of the above, Applicant respectfully submits that pending claims 1, 2, 4-9, 11, 12, 34, 35, 38, 39, 42-48 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 1, 2, 4-9, 11, 12, 34, 35, 38, 39, 42-48 are respectfully requested.

No fees are required under 37 C.F.R. 1.16(b)(c). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 50-0471.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

Any inquiry regarding this Amendment and Response should be directed to Timothy A. Czaja at Telephone No. (612) 573-2004, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

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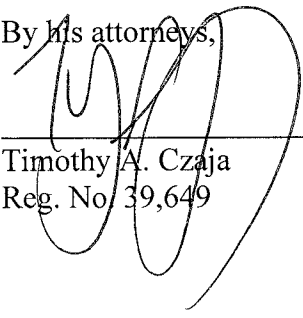
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Respectfully submitted,

Wilson T. Asfora,

By his attorneys,

Date: September 18, 2007
TAC:jms



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